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AMENDING THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED

June 26, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Barden, from the Committee on Education and Labor, submitted the following

REPORT

[To accompany H. R. 11799]

The Committee on Education and Labor, to whom was referred the bill (H. R. 11799) to amend the Fair Labor Standards Act of 1938, as amended, having considered the same, report favorably thereon without amendment and recommend that the bill (H. R. 11799) do pass.

Principal Provisions

H. R. 11799 would amend the Fair Labor Standards Act as follows:

(1) To exclude from any possible coverage of the act work which has been done in the past or which will be done in the future by United States Government contractors on overseas bases in foreign countries;

(2) To provide administrative machinery whereby the Fair Labor Standards Act will be made applicable to Guam, Wake Island, American Samoa, and the Canal Zone;

(3) To eliminate the possibility of retroactive liability under the act for work performed in the past on either the overseas bases or on Guam, American Samoa, the Canal Zone, or Wake Island.

Overseas Base Problem

The Fair Labor Standards Act has been interpreted as applying to many overseas areas which were not contemplated when it was originally enacted. This unanticipated extension of coverage began with a Supreme Court decision in 1948 in *Vermila Brown Co., Inc.* v. *Connell* (335 U. S. 377). This held that the Fair Labor Standards Act was applicable to employees of United States Government contractors engaged in the construction of a military base for the United

States on land in Bermuda held by the Federal Government under lease agreement with Great Britain. The Court found that—

> the facts indicate an intention on the part of Congress in its use of the word "possession" to have the act apply to employee-employer relations on foreign territories under lease for bases.

The decision did not touch on the question of whether or not persons engaged in such construction work as the building of military bases are, in fact, engaged in "commerce or in the production of goods for commerce" so as to require their employers to comply with the provisions of the Fair Labor Standards Act. As a practical matter, however, the decision raises the possibility of either complete or partial coverage of work done on scores of military bases all over the world.

The Department of Defense policy allows contractors working on overseas bases to employ native workers at wages and under working conditions consistent with local employment standards. This policy is usually incorporated in formal agreements with the respective governments concerned; frequently, these agreements provide that native workers will not be paid more than the maximum wage in the area. In this way recognition is given to the desires of the foreign governments who want to prevent the unwarranted economic strains which would result from the application of United States employment standards in these areas.

This policy is in the best interests of the United States; it enables this country to get the most for its defense dollar. The committee was of the opinion that the adoption and administration of this policy by the Department of Defense is to be commended.

In complying with this policy, however, a defense contractor at an overseas base may find, at some later date, that he has violated the Fair Labor Standards Act as to minimum wages, maximum hours, records to be kept, child labor prohibitions, and so forth. Such contractors could be liable for judgments for failure to pay overtime rates, underpayment of wages, plus an equal amount for liquidated damages, attorneys' fees, and court costs.

In order to protect its contractors, the Department of Defense agrees to indemnify them for such damages should it eventually be determined that such work should have been performed in accordance with the provisions of the Fair Labor Standards Act.

For example, the Department of the Army constructed airbases in French Morocco; agreements were entered into with the French Government as to the use of American and native labor. During the early part of the work, the French Government permitted only a total of 130 American supervisors to be sent to Morocco to work for American contractors. The wage scales for Americans were comparable to those paid in the United States while native labor was paid 10 cents per hour plus fringe benefits. French officials felt that a higher wage rate would upset the economy of Morocco.

Had the United States insisted on conformance to American employment standards for the native workers, the defense base agreement would have been seriously delayed; also a substantial increase in cost to the Government would have resulted. Several thousand Arabs were employed on this project.

The Department of Defense has or is engaged in such projects in the West Indies, Spain, Italy, Turkey, the Philippines, Japan, Okinawa, and in many other places.

COST TO THE GOVERNMENT

It has been noted that the United States Government has agreed to indemnify its contractors in the event it is determined in the future that contracts on bases in foreign countries should have been performed under the provisions of the Fair Labor Standards Act.

This means that some interpretation at some unknown future date could cost the United States many millions of dollars in retroactive liability, and at the same time increase the future cost of building and maintaining overseas military bases substantially.

In the area of retroactive liability, official estimates indicate a possible liability for a certain group of overseas bases at $175 million, plus a probable retroactive liability as to work on other installations (including those on Guam and in the Canal Zone) of $50 million, making a total of $225 million. This estimate does not cover the cost involved in searching the employment records of thousands of employees, and the statutory provision for liquidated damages and attorney fees.

As to increased future costs to the Government, official estimates indicate a possible increase of $325 million, plus a probable increase in other areas of $90 million, for a total of $415 million over the next 2 fiscal years. This figure does not reflect increased costs involved in maintaining skill differentials, or additional payroll and other records which must be kept.

Thus, passage of this bill could save the United States a minimum of $640 million in direct costs alone, plus an incalculable amount in indirect costs.

SPECIAL CONSIDERATIONS

In deciding to exclude overseas bases in foreign countries from any possible application of the Fair Labor Standards Act, the committee was impressed by three principal arguments:

(1) The desirability of allowing the Government to continue its present procedures of establishing employment standards through negotiation and agreement with the governments of the areas involved;

(2) The substantial monetary savings to the United States;

(3) The necessity of establishing, once and for all, the geographic coverage of the Fair Labor Standards Act so that future negotiations with foreign governments in regard to defense bases can be carried on with some degree of certainty.

AMERICAN SAMOA

American Samoa is composed of seven islands located approximately 2,300 miles southwest of Hawaii. The islands have a land area of roughly 76 square miles or 48,640 acres. The total population is about 25,000, of which 12,000 live on the main island of Tutuila. The islands were under the administration of the United States Navy from February 19, 1900, until July 1, 1951, when they were transferred to the jurisdiction of the Department of the Interior.

The Governor is appointed by the Secretary of the Interior and is in charge of the administration of the civil government. The Department of the Interior's economic policy is to establish a sound basic economy which will provide for food and monetary needs of a rapidly increasing population and which will provide a firm foundation for self-government. It is costing the United States $1,300,000 a year to operate the government of Samoa. To reduce this cost it is necessary to encourage industrial development on the islands. There is little, if any, tourist trade and practically no suitable land for the expansion of agriculture. The only industry on the islands, other than some handicrafts and limited agriculture, is a cannery operated, under lease, by the Van Camp Seafood Co.

Shortly after World War II, a firm financed by Rockefeller Foundation funds established a commercial fish cannery on Pago-Pago, Samoa, which failed. Later the cannery was sold to the Wilbur-Ellis Co. of San Francisco, but this company never operated it. The government of American Samoa purchased the cannery at salvage value, offered it for lease, and in December 1953 the Van Camp Seafood Co. of California took over under a 1-year lease.

The company invested approximately $500,000; a new lease has been executed for 5 years beginning January 1, 1956, with 3 renewal options of 5 years each for a possible total of 20 years. The Van Camp Co. has difficulty in obtaining fish in sufficient quantities and is at present undertaking a program of teaching the Samoans how to fish commercially. Fish are being obtained from Japanese fishermen under a contract agreement. There are roughly 300 employed in the cannery. Most of the employees are women. The wage rates vary from 27 cents to $1 per hour (for 1 employee), with an average of 40 cents an hour. Individual wages are increased 2 cents an hour for each year of work satisfactorily performed up to a total of 5 years. These wage rates are comparable to those of the government of American Samoa which employs about 1,500. The company has operated at a loss of $200,000 during the first year of operation, and a loss of $30,000 during the second.

Testimony clearly indicated that if a statutory minimum wage of $1 per hour is enforced it will probably force the cannery to close. Further, and more importantly, it would foreclose any possibility of other industries being developed on the islands.

The Samoan Legislature, known as the Fono, has requested that American Samoa be exempt from the provisions of the act.

The proposed bill provides the administrative machinery to establish a minimum wage in such a way as to stimulate the island's economy.

Guam

This South Pacific island was taken over by the United States in 1898 from Spain and placed under the administration of the Department of the Navy. In 1950 the Congress enacted the Organic Act for Guam providing a civilian government under the jurisdiction of the Department of the Interior. Today there are approximately 75,000 people on the island, of which 35,000 are Guamanians, from 11,000 to 13,000 Filipinos, under contract, and the remainder consist of military personnel.

The economy of the island is based on military construction and maintenance. There is very little industry other than a small amount of native handicraft and some agriculture. A large number of stores, shops, night clubs, and other establishments service the military personnel stationed on Guam. A shortage of labor for both the civilian and military needs is being met by imported contract labor from the Philippines. There are roughly 6,900 Guamanian employables; testimony regarding the number of unemployed varied from 100 to 1,000. Wages paid to Guamanians average over $1 an hour. Employees of the island government are paid a minimum of $1 an hour. Guamanians working for the military receive $1 an hour and up depending upon the degree of skill required in the work.

In 1947, the military, under an exchange of notes between the United States Government and the Philippine Government, was authorized to contract with Philippine companies to supply needed labor. There are 3,800 Filipinos working on the military docks, 3,300 working for the Navy, and 1,500 working for the Air Force. These workers are paid a minimum of 32 cents an hour in cash plus fringe benefits estimated at 22 cents an hour which includes food, housing, and medical services for a minimum hourly rate of 54 cents.

The average wage at present in the Philippine Islands is 25 cents an hour.

If the Fair Labor Standards Act were to be made applicable to the imported Filipinos on Guam, the Department of Defense contractors and eventually the United States might be liable for wages and penalties in excess of $3 million for retroactive wage payments alone. In addition, new wage scales embodying minimum payments of $1 per hour beginning March 1, 1956, and customary differentials for classifications with more skill would increase costs by more than $9 million per year.

Some Filipinos have been brought into work for private individuals in the services, and in shops, cafes, night clubs, and similar businesses. The Department of Labor of the Guamanian government requires such employers to prove there is no available worker on Guam before he can import a contract worker. Several thousands of these are now employed on Guam.

The bill does not exempt Guam from coverage of the act. It directs the Secretary of Labor to establish a minimum wage as recommended by an industry committee. This is the same machinery now used to establish minimum wages in Puerto Rico and the Virgin Islands.

WAKE ISLAND

Wake is a small island possession situated in the South Pacific north of the Marshall Islands and approximately 2,000 miles southwest of Hawaii. There is no indigenous population on the island and no industry. There is an airfield which serves as a fueling station for transpacific planes.

At the present time there is no need for the establishment of a minimum wage but there may be at some future date. The provision of the bill (H. R. 11799) which allows the Secretary of Labor to establish an appropriate minimum wage and other coverage upon the recommendations of a special industry committee is consistent with that provided for our other industrially undeveloped Territories and possessions.

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CANAL ZONE

The Canal Zone is 10 miles wide and 50 miles long. Under the 1903 treaty by which it was acquired from the Republic of Panama the United States exercises all sovereign right, power, and authority within the Canal Zone. Approximately 40,000 civilians live in the Canal Zone, of which about half are United States citizens. Any private business enterprise in the Zone must be connected with the operation of the canal. Under treaties with the Republic of Panama only certain categories of persons may reside in the Canal Zone, principally persons in military or civilian service of the United States Government.

There are 25,257 employed in the Canal Zone. Of this number over 15,000 are employees of the Panama Canal Company and Canal Zone Government, and about 7,000 more are employees of the Army, Navy, and Air Force, another 274 are employees of other United States Government agencies, and nearly 1,200 are employees of Army, Navy, and Air Force post exchanges and similar quasi-Government agencies. Private employment in the Canal Zone is therefore limited to the 1,225 contractors' employees, practically all of whom are Panamanians, 368 employees of the few commercial firms such as shipping agents, oil companies, and the cable company, and about 100 employees of churches, welfare organizations, and other noncommercial enterprises. Government employment, which is exempt from the application of the act, covers 93.3 percent of the employment in the Canal Zone. Of the remaining 6.7 percent or 1,700 employees, only some would be subject to the act since it applies only to employees engaged in commerce or the production of goods for commerce.

The wage scale covering the employees of the Panama Canal Company and the Canal Zone Government ranges from 41 cents an hour (with very few receiving a wage this low) to $1.59 an hour depending upon the skill required in the job. The pay for recruited United States workers for full-time positions is not less than $1 an hour; the average hourly rate is $3.15 and the average annual salary is $6,546.

The wage rates paid to Government contractors' employees ranges from 40 cents per hour paid to common laborers up to $1.50 per hour and in a few instances even higher. Approximately 85 percent of the total number of employees receive less than $1 per hour. It is estimated that these wage rates are about 20 to 30 percent higher than those paid in the Republic of Panama, where there is a serious unemployment problem and where most of the Panamanians employed on the Canal Zone live.

The Fair Labor Standards Act covers only a small number of workers in the Canal Zone and for this reason the Governor of the Canal Zone and the Defense Department are of the opinion that a special minimum wage law covering all of the employees in the zone is the best method to handle the unusual and unique employment and wage conditions in the zone. However, rather than drafting a special minimum wage law for one area, the committee decided the Canal Zone should be covered in the same manner as other industrially undeveloped Territories and possessions.

Conclusion

This bill (H. R. 11799) has three main objectives.

(1) To clarify once and for all the question raised by a Supreme Court decision regarding the applicability of the act to work performed on United States bases in foreign countries. It is extremely doubtful that the Congress ever intended that the law apply in these areas where labor is recruited from a foreign country, adjacent to the base, under agreements made with a foreign country, which has a primary interest in working conditions and wages in the area affected.

(2) To provide adequate coverage by the Fair Labor Standards Act in all United States Territories and possessions. Guam, Wake, Samoa, and the Canal Zone have been covered technically by the act, but because of very practical considerations the law has not been enforced. This situation should not and cannot be allowed to continue.

(3) It relieves the employer (who in the overwhelming majority of cases are contractors for the Defense Department) of liability incurred in the past for failure to comply with the provisions of the act. In the cases of the contractors who are not complying with the act, specific agreements in their contracts provided for such liability to be borne by the United States agencies with whom they had contracts. Hence, it is the United States Government that is being provided relief from such past liability.

Enactment of H. R. 11799 will result in complete and adequate coverage for all Territories and possessions, the exemption of work performed on overseas bases in foreign countries by foreign labor contracted for under agreements satisfactory to foreign governments, and relief for the United States Government from a potential retroactive liability of more than $200 million. The Defense Department will be able to negotiate its contracts for needed labor without being hampered by the existing doubt and uncertainty. The Defense Department can continue the development of our defense programs without additional and unnecessary costs both in our possessions and in overseas bases.

The committee is of the strong conviction that this legislation is of vital importance to the United States Government from the standpoint of reasonable and adequate coverage for industrially undeveloped possessions, and especially from the standpoint of proper and sound relations with foreign governments. The enactment of this bill is unquestionably in the best interest of our country.

Sectional Analysis of The Bill

Section 1 provides that this act may be cited "Overseas Fair Labor Standards Amendments of 1956".

Section 2 adds a new subparagraph (3) to subsection 6 (a) of the Fair Labor Standards Act of 1938, as amended. It provides for the payment of minimum wages to employees in Guam, American Samoa, the Canal Zone, and Wake Island. Minimum wage rates are to be established by the Secretary of Labor as recommended by a special industry committee or committees for each similar to the special industry committees now in existence for Puerto Rico and the Virgin Islands. Such minimum wage rates may not exceed the $1 minimum in effect generally.

Section 3 adds two new subsections (e) and (f) to section 13 of the Fair Labor Standards Act.

The new subsection (e) exempts overseas bases in foreign countries from the coverage of the act by providing that its substantive provisions shall not apply to any employee whose services during the week are performed in a work place within a foreign country or within a territory under the jurisdiction of the United States other than the following: a State of the United States, the District of Columbia, Alaska, Hawaii, Puerto Rico, Virgin Islands, Guam, Samoa, the Canal Zone, Wake Island, and outer Continental Shelf lands.

New subsection (f) provides that overtime provisions and child labor provisions shall not apply with respect to employees in Guam, American Samoa, the Canal Zone, or Wake Island until such time as a minimum wage has been established as provided in section 2 of the bill. Special industry committees for each area may recommend to the Secretary rules and regulations providing reasonable variations and exemptions from the overtime and child labor provisions. Such recommendations will not affect any of the special exemptions of either employers or employees contained elsewhere in the act.

Section 4 amends section 16 of the Fair Labor Standards Act by adding a new subsection (d), providing that in any action or proceeding commenced prior to, on, or after the date of enactment, no employer shall be subject to any liability or punishment under the Fair Labor Standards Act or the Portal to Portal Act of 1947 for failure to comply with the provisions of such act for work performed outside a State of the United States, the District of Columbia, Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the outer Continental Shelf lands as defined in the outer Continental Shelf Lands Act, and for work performed on Guam, American Samoa, the Canal Zone, and Wake Island, at any time prior to the establishment by the Secretary of a minimum wage rate applicable to such work. This eliminates the possibility of retroactive liability for any work performed on overseas bases in foreign countries and for work performed on Guam, American Samoa, the Canal Zone, and Wake Island. Once a minimum wage is established on any of the named possessions, the act will apply to work performed in the future.

Section 5 amends section 17 of the Fair Labor Standards Act by the insertion of the words "and the District Court of Guam" after the word "Virgin Islands" so as to give this court jurisdiction over actions brought under the act.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Fair Labor Standards Act of 1938, as Amended

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MINIMUM WAGES

SEC. 6. (a) Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at the following rates—

(1) not less than $1 an hour;

(2) if such employee is a home worker in Puerto Rico or the Virgin Islands, not less than the minimum piece rate prescribed by regulation or order; or, if no such minimum piece rate is in effect, any piece rate adopted by such employer which shall yield, to the proportion or class of employees prescribed by regulation or order, not less than the applicable minimum hourly wage rate. Such minimum piece rates or employer piece rates shall be commensurate with, and shall be paid in lieu of, the minimum hourly wage rate applicable under the provisions of this section. The Secretary of Labor, or his authorized representative, shall have power to make such regulations or orders as are necessary or appropriate to carry out any of the provisions of this paragraph, including the power without limiting the generality of the foregoing, to define any operation or occupation which is performed by such home work employees in Puerto Rico or the Virgin Islands; to establish minimum piece rates for any operation or occupation so defined; to prescribe the method and procedure for ascertaining and promulgating minimum piece rates; to prescribe standards for employer piece rates, including the proportion or class of employees who shall receive not less than the minimum hourly wage rate; to define the term "home worker"; and to prescribe the conditions under which employers, agents, contractors, and subcontractors shall cause goods to be produced by home [workers.] *workers;*

(3) if such employee is employed in Guam, American Samoa, the Canal Zone, or Wake Island, not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint for each such possession in the same manner and pursuant to the same provisions as are now applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act. Each such committee shall have the same powers and duties with respect to the application of the provisions of this Act to the place for which it is established as special industry committees established under section 5 have with respect to Puerto Rico and the Virgin Islands. The minimum wage rate thus established shall not exceed the rate prescribed in paragraph (1) of this subsection.

(b) This section shall take effect upon the expiration of one hundred and twenty days from the date of enactment of this Act.

(c) The provisions of paragraph (1) of subsection (a) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands engaged in commerce or in the production of goods for commerce only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided,* That the wage order in effect prior to the effective date of this Act for any industry in Puerto Rico or the Virgin Islands shall apply to every employee in such industry covered by subsection (a) of this section until superseded by a wage order hereafter issued pursuant to the recommendations of a special industry committee appointed pursuant to section 5.

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EXEMPTIONS

SEC. 13. (a) The provisions of sections 6 and 7 shall not apply with respect to (1) any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Secretary of Labor); or (2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or both) is not for resale and is recognized as retail sales or services in the particular industry; or (3) any employee employed by any establishment engaged in laundering, cleaning or repairing clothing or fabrics, more than 50 percentum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or (4) any employee employed by an establishment which qualities as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or (5) any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing (other than canning), marketing, freezing, curing, storing, or distributing the above products or byproducts thereof; or (6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or (7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or (8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or (9) any employee of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or (10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or (11) any switchboard operator employed in a public telephone exchange which has not more than seven hundred and fifty stations; or (12) any employee of an employer engaged in the business of operating taxicabs; or (13) any employee or proprietor in a retail or service establishment as defined in clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed $500 a month; or (14) any employee employed as a seaman; or (15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve.

(b) The provisions of section 7 shall not apply with respect to (1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or (2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or (3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or (4) any employee employed in the canning of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or (5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state.

(c) The provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, or to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.

(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer.

(e) The provisions of sections 6, 7, 11, and 12 shall not apply with respect to any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: A State of the United States; the District of Columbia; Alaska; Hawaii; Puerto Rico; the Virgin Islands; outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); and the possessions named in section 6 (a) (3).

(f) The provisions of section 7 and section 12 shall not apply with respect to employees for whom the Secretary of Labor is authorized to establish minimum wage rates as provided in section 6 (a) (3) except with respect to employees for whom such rates are in effect; and with respect to such employees the Secretary may make rules and regulations providing

reasonable limitations and allowing reasonable variations, tolerances, and exemptions to and from any or all of the provisions of sections 7 and 12 in accordance with the recommendations of a special industry committee or committees established pursuant to section 6 (a) (3). Such recommendations may not affect any special exemptions of either employers or employees contained elsewhere in this Act.

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PENALTIES

SEC. 16. (a) Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not, more than $10,000, or to imprisonment for not more than six months or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

(b) Any employer who violates the provisions of section 6 or section 7 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(c) The Secretary of Labor is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or section 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. When a written request is filed by any employee with the Secretary claiming unpaid minimum wages or unpaid overtime compensation under section 6 or section 7 of this Act, the Secretary may bring an action in any court of competent jurisdiction to recover the amount of such claim: *Provided*, That this authority to sue shall not be used by the Secretary in any case involving an issue of law which has not been settled finally by the courts, and in any such case no court shall have jurisdiction over such action or proceeding initiated or brought by the Secretary if it does involve any issue of law not so finally settled. The consent of any employee to the bringing of any such action by the Secretary, unless such action is dismissed without prejudice on motion of the Secretary, shall constitute a waiver by such employee of any right of action he may have under subsection (b) of this section for such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary under this subsection for the purposes of the two-year statute of limitations provided in section 6 (a) of the Portal-to-Portal Act of 1947, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

(d) In any action or proceeding commenced prior to, on, or after the date of enactment of this subsection, no employer shall be subject to any liability or punishment under this Act or the Portal-to-Portal Act of 1947 on account of his failure to comply with any provision or provisions of such Acts with respect to work performed in a workplace to which the exemption in section 13 (e) is applicable, or with respect to work performed in a possession named in section 6 (a) (3) at any time prior to the establishment by the Secretary, as provided therein, of a minimum wage rate applicable to such work.

INJUNCTION PROCEEDINGS

SEC. 17. The district courts, together with the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, [and] the District Court of the Virgin Islands *and the District Court of Guam* shall have jurisdiction, for cause shown, to restrain violations of section 15: *Provided*, That no court shall have jurisdiction, in any action brought by the Secretary of Labor to restrain such violations, to order the payment to employees of unpaid minimum wages or unpaid overtime compensation or an additional equal amount as liquidated damages in such action.

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